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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.        | CONFIRMATION NO.       |
|---|-------------|----------------------|----------------------------|------------------------|
| 10/552,171  | 10/05/2005  | Matthias Fischer     | 56102/M521                 | 6526                   |
| 23363 7590 09/18/2007<br>CHRISTIE, PARKER & HALE, LLP<br>PO BOX 7068<br>PASADENA, CA 91109-7068 |             |                      | EXAMINER<br>ABRAHAM, TANIA |                        |
|   |             |                      | ART UNIT<br>3636           | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>09/18/2007    | DELIVERY MODE<br>PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/552,171 | <b>Applicant(s)</b><br>FISCHER ET AL. |  |
|                              | <b>Examiner</b><br>Tania Abraham     | <b>Art Unit</b><br>3636               |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22,24-26,29-31 and 33-36 is/are rejected.
- 7) ☒ Claim(s) 23,27,28 and 32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/5/05</u> . | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8, 13, 19, 22, 26 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 8 recites the limitation "the other end" in line 2. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 13 recites the limitation "its front end" in line 2. It is unclear whether the term "its" refers to the "upholstery carrier" or the "coupling member".
5. Claim 19 recites the limitation "the traction" in line 4. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 22 recites the limitation "the other end" in line 2. There is insufficient antecedent basis for this limitation in the claim.
7. Claim 26 recites the limitation "by which it is guided" in line 2. It is unclear whether the term "it" refers to the "upholstery carrier" or the "guiding device".
8. Claim 35 recites the limitation "the seat trough" in line 4. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-7, 9-13, 24, 30-31 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Smuk ('679). Smuk shows a motor vehicle seat with a backrest 40 that is foldable forwards through swivel action from at least one useful position, an upholstery carrier 33 to hold a seat cushion 30 and a coupling member 43 (fig. 9) through which the backrest 40 is coupled to the upholstery carrier 33 so that the upholstery carrier is displaced when the backrest is folded forwards (fig. 8), wherein the coupling member is connected to an elastic element 106 so that when the backrest is swiveled from a useful position in a first swivel area the elastic element is deformed and in at least a further swivel area the coupling member acts on the upholstery carrier. Concerning claim 2, the coupling member is longitudinally extended and the elastic element engages on one end of the coupling member. Regarding claims 4, 5 and 9, the coupling member is a flexible traction cable 43, wherein the coupling member is guided at least in some sections in a Bowden cable 38, and wherein the traction member 43 is tightened as the backrest is folded forwards whereby the elastic element 106 is deformed at first. As to claims 7 and 24, the elastic element is supported on the backrest through a support element 116 mounted rotatable on the backrest 40 via interlock plate member 100, wherein the support element 116 has a through opening for the coupling member 43.

For claims 11-13, the elastic element is a coil spring 106 which encloses an end section of the coupling member, wherein the coupling member engages by one end on the backrest 40 and by the other end on the upholstery carrier 33, and wherein the coupling member engages on the upholstery carrier in a front end region in a seat longitudinal direction. For claims 30-31, the backrest 40 is mounted for swivel movement about an axis "Z", wherein the swivel axis is designed as a locally fixed axis. As to claim 36, the upholstery carrier 33 is moved in a seat longitudinal direction when the backrest is folded forwards (fig. 8).

11. Claims 1, 14-18, 25, 29, 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Smuk ('533). Smuk shows a motor vehicle seat with a backrest 33 that is foldable forwards through swivel action from at least one useful position, an upholstery carrier 34 to hold a seat cushion and a coupling member 40 (fig. 9) through which the backrest 33 is coupled to the upholstery carrier 33 so that the upholstery carrier is displaced when the backrest is folded forwards (fig. 8), wherein the coupling member 40 is connected to an elastic element 45 so that when the backrest is swiveled from a useful position in a first swivel area the elastic element is deformed (fig. 9) and in at least a further swivel area (fig. 10) the coupling member 40 acts on the upholstery carrier. Regarding claim 14, a locking mechanism 49 is provided with which the upholstery carrier 34 is lockable so that the upholstery carrier is not shiftable under the action of the coupling member 40. Concerning claim 16, the locking mechanism 49 is unlockable through action of the backrest 33 on the coupling member 40. For claims 17 and 18, the locking mechanism 49 is releasable after a predeterminable deformation of

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the elastic element 45 through further action of the backrest 33 on the coupling member when the backrest is folded forwards, wherein the pre-determinable deformation of the elastic element occurs when the backrest moves from the position shown in fig. 8 to the position of fig. 9; and wherein the locking mechanism 49 is releasable through a structural assembly, including members 44 and 48, which is in active connection with the coupling member 40. As to claim 25, the upholstery carrier 34 is connectable through a swivel lever 61 to a structural assembly 22 fixed on the floor of the motor vehicle. For claim 29, the elastic element 45 enables the backrest to be swiveled from the at least one useful position towards the seat surface about a defined swivel angle without the backrest 33 causing a displacement of the upholstery carrier 24 through the coupling member 40 (shown in fig. 9). Concerning claims 33 and 34, the backrest 33 is assigned an adjusting device 36 (fig. 5); and when the backrest is swiveled within the useful area the elastic element 45 is deformed through tensioning or relaxation so that there is no action by the coupling member on the upholstery carrier 40.

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

13. Claims 1, 14, and 19-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Taubmann et al ('463).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

14. Taubmann et al show a motor vehicle seat with a backrest R that is foldable forwards through swivel action from at least one useful position, an upholstery carrier T to hold a seat cushion and a coupling member K through which the backrest R is coupled to the upholstery carrier T so that the upholstery carrier is displaced when the backrest is folded forwards, wherein the coupling member K is connected to an elastic element of the fixing device F so that when the backrest is swiveled from a useful position in a first swivel area the elastic element is deformed and in at least a further swivel area the coupling member K acts on the upholstery carrier T. Taubmann et al discloses their fixing device F, in col. 3: 28-35, to be known from WO 00/55002. Cited reference Liebetrau et al ('952) is the U.S. equivalent to WO 00/55002. Reference will herein be made to Liebetrau et al for details of Taubmann et al's fixing device F. Liebetrau et al show the elastic element of the fixing device as a spring 20a connected to the coupling member 21 via swivel lever 23. For claim 14, Liebetrau et al details a locking mechanism 20 with which the upholstery carrier T is lockable so that the upholstery carrier is not shiftable under the action of the coupling member K. As to claims 19 and 20, the coupling member K is guided in some sections in a Bowden cable

6 and the locking mechanism is releasable by the Bowden cable when a traction cable 5 is tightened; and wherein the Bowden cable is connected to an unlocking element 23 (shown by Liebetrau). For claims 21 and 22, the Bowden cable is supported at one end on a rotatably mounted support element 22 (shown by Liebetrau) of the unlocking element 23, and at another end is supported on a support 3 of the backrest R.

***Allowable Subject Matter***

15. Claims 23 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. Claims 8, 26 and 35 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

17. Claims 27 and 28 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

18. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record do not show or suggest, either singly or combined, a seat where a seat bottom is displaced by folding of the backrest via a coupling member and elastic element; wherein as the backrest is folded, firstly the elastic element is deformed without initiating displacement, secondly a locking mechanism is released, and thirdly the seat is displaced via action by the coupling member.



**Conclusion**


18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Abraham whose telephone number is 571-272-2635. The examiner can normally be reached on Monday - Friday, 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tania Abraham  
September 12, 2007



DAVID DUNN  
SUPERVISORY PATENT EXAMINER